

REMARKS

In reply to the Office Action dated June 22, 2004, claims 18-22 are currently under examination in the Application. By the above amendment, claims 18 and 21 have been amended. The above amendment is not to be construed as acquiescence to the stated grounds for objection/rejection and is made without prejudice to prosecution of any subject matter modified and/or removed by this amendment in a related divisional, continuation and/or continuation-in-part application.

In the Office Action mailed June 22, 2004, the Examiner noted that the references cited in the IDS's sent February 9, 2001 and October 19, 2001 were not considered. While the references were submitted to and/or cited by the Patent and Trademark Office in prior applications, the Examiner indicated that the documents were not available. Accordingly, all references not considered are listed on pages 3-8 of attached Forms PTO-1449 (Fourth Supplemental Information Disclosure Statement), and a copy of each reference is submitted herewith. Applicants note that additional IDS's were filed October 22, 2001 and May 10, 2002. Copies of the cited references were included upon filing these IDS's. Applicants respectfully request acknowledgement of the references listed in the four IDS's heretofore submitted in the instant application. Additionally, Applicants disclose and would like to have officially considered the references listed on pages 1-2 of the attached forms PTO-1449 (copies enclosed).

Applicants note that the specification has been updated to reflect the status of applications listed in the Cross Reference to Related Applications. Reference has been removed to applications filed prior to Application No. 09/483,672, filed January 14, 2000, where disclosure of antibodies specific for amino acid residues 120-139, 151-169 or 165-184 of SEQ ID NO: 114 can be found (e.g., Example 18c(c)).

Claims Rejections – 35 U.S.C. § 102

Claims 18-20 and 22 stand rejected as allegedly being anticipated under 35 U.S.C. § 102(e) over Hillman *et al.* (US. Patent No. 6,020,478 filed 2/28/97). According to the Examiner, Hillman *et al.* teach SEQ ID NO: 1 which is allegedly identical with instant SEQ ID NO: 114. The Examiner further states that Hillman *et al.* teach polyclonal and monoclonal antibodies to the protein and carriers, and the antibodies can be used in the treatment of cancer.

Applicants respectfully traverse this rejection. By the above amendment, for purposes of clarity and without acquiescing to the stated grounds for rejection, the claims have been amended to be drawn to antibodies and antigen-binding fragments thereof that specifically bind to amino acid residues 120-139, 151-169 or 165-184 of SEQ ID NO: 114. As Hillman *et al.* does not describe antibodies or antigen binding fragments thereof that specifically bind to amino acid residues 120-139, 151-169 or 165-184 of SEQ ID NO: 114, Hillman *et al.* fails to anticipate the currently claimed invention. Reconsideration is respectfully requested.

Claims Rejections – 35 U.S.C. § 103

Claims 19-20 and 22 stand rejected as allegedly being obvious under 35 U.S.C. § 103(a) over Hillman *et al.* (U.S. Patent No. 6,020,478 filed 2/28/97) and further in view of Gillies (U.S. Patent No. 6,650,150 issued 7/97). According to the Examiner, Hillman *et al.* teach SEQ ID NO: 1 which is allegedly identical with instant SEQ ID NO: 114. The Examiner further states that Hillman *et al.* teach polyclonal and monoclonal antibodies to the protein and carriers, and the antibodies can be used in the treatment of cancer. The Examiner acknowledges that Hillman *et al.* does not teach an immunostimulant with the antibody but that Gillies makes up for this deficiency by teaching fusion protein comprising anti-tumor antibodies and cytokines for the treatment of tumors. The Examiner concludes that it would have been *prima facie* obvious to one of ordinary skill in the art at the time the claimed invention was made to have produced a composition comprising an antibody to SEQ ID NO: 114 and a cytokine for inhibiting tumor growth.

Applicants respectfully traverse this rejection. By the above amendment, for purposes of clarity and without acquiescing to the stated grounds for rejection, the claims have been amended to be drawn to antibodies and antigen-binding fragments thereof that specifically bind to amino acid residues 120-139, 151-169 or 165-184 of SEQ ID NO: 114. As noted above, Hillman *et al.* does not describe antibodies or antigen binding fragments thereof that specifically bind to amino acid residues 120-139, 151-169 or 165-184 of SEQ ID NO: 114, as claimed. Moreover, Gillies does not describe antibodies or antigen binding fragments thereof that specifically bind to amino acid residues 120-139, 151-169 or 165-184 of SEQ ID NO: 114. Accordingly, as the cited references fail to teach, suggest, or otherwise lead the skilled artisan to

each and every element of the claimed invention, the claimed invention is not obvious in view of the cited references. Reconsideration is respectfully requested.

Claims 18-20 and 22 stand rejected as allegedly being obvious under 35 U.S.C. § 103(a) over Hillman *et al.*, (U.S. Patent No. 6,020,478 filed 2/28/97) and further in view of Fujiwara *et al.* (Cancer Chemother Pharmacol 38:s22-26, 1996). According to the Examiner, Hillman *et al.* teach SEQ ID NO: 1 which is allegedly identical with instant SEQ ID NO: 114. The Examiner further states that Hillman *et al.* teaches polyclonal and monoclonal antibodies to the protein and carriers, and the antibodies can be used in the treatment of cancer. The Examiner acknowledges that Hillman *et al.* does not teach an immunostimulant with the antibody but that deficiency is made up for by the teachings of Fujiwara *et al.* that tumors may be treated with IL-12. The Examiner concludes that it would have been *prima facie* obvious to have produced a composition comprising an antibody to SEQ ID NO: 114 and a cytokine for inhibiting tumor growth.

Applicants respectfully traverse this rejection. By the above amendment, for purposes of clarity and without acquiescing to the stated grounds for rejection, the claims have been amended to be drawn to antibodies and antigen-binding fragments thereof that specifically bind to amino acid residues 120-139, 151-169 or 165-184 of SEQ ID NO: 114. As noted above, Hillman *et al.* does not describe antibodies or antigen binding fragments thereof that specifically bind to amino acid residues 120-139, 151-169 or 165-184 of SEQ ID NO: 114, as claimed. Moreover, Fujiwara *et al.* does not describe antibodies or antigen binding fragments thereof that specifically bind to amino acid residues 120-139, 151-169 or 165-184 of SEQ ID NO: 114. Accordingly, as the cited references fail to teach, suggest, or otherwise lead the skilled artisan to each and every element of the claimed invention, the claimed invention is not obvious in view of the cited references. Reconsideration is respectfully requested.

Application No. 09/780,669
Reply to Office Action dated June 22, 2004

The Commissioner is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

All of the claims remaining in the application are now believed to be in condition for allowance. Favorable consideration is respectfully requested.

Respectfully submitted,

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JEH:tt

Enclosure:

Postcard
Fourth Supplemental Information Disclosure Statement
PTO 1449
Copy of Cited References (90)

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